



FEDERAL ELECTION COMMISSION Oct 12 2 05 PM '95
WASHINGTON, D.C. 20463

October 12, 1995

MEMORANDUM

TO: The Commission
THROUGH: John C. Surina *Yes by CW*
Staff Director

FROM: Lawrence M. Noble *L*
General Counsel

N. Bradley Litchfield *NBL*
Associate General Counsel

Jonathan M. Levin *JL*
Senior Attorney

Subject: Draft AO 1995-34

Attached is a proposed draft of the subject advisory opinion.

We request that this draft be placed on the agenda for October 19, 1995.

Attachment

AGENDA ITEM
For Meeting of: OCT 19 1995

0505 / 52518

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2
3 ADVISORY OPINION 1995-34

4 Michael J. Kurman
5 Elliott I. Portnoy
6 Arent, Fox, Kintner, Plotkin & Kahn
7 1050 Connecticut Avenue, N.W.
8 Washington, D.C. 20036-5339

DRAFT

9 Dear Messrs. Kurman and Portnoy:

10 This responds to your letter dated August 28, 1995,
11 requesting an advisory opinion on behalf of Politechs, Inc.
12 ("Politechs") concerning the application of the Federal
13 Election Campaign Act of 1971, as amended ("the Act"), and
14 Commission regulations to the provision of 900-line services
15 for fundraising by political committees.

16 Politechs, an information provider, will contract
17 directly with authorized committees and other political
18 committees that are not separate segregated funds for the
19 delivery of 900-line services. You wish to know the
20 permissibility of the proposed services under the Act and
21 Commission regulations.

22 I. Politechs' Proposal

23 A. Description of Proposed Services

24 Politechs intends to offer political committees the
25 following array of services:

26 (1) callers may obtain information about a candidate's
27 position on various issues via "touchtone" prompts and
28 responses, or by entering their fax number and requesting
29 information via a faxback service;

30 (2) callers may express their support for, or opposition to,
a candidate's position on various issues via touchtone
prompts, and a summary of their responses will be provided to
the political committee;

(3) callers may make political contributions to the
political committee by selecting an amount and entering a

3 credit card number and expiration date;

4 (4) callers may express an interest in contributing to the
5 political committee by means other than credit card
6 transactions, and that interest will be communicated to the
7 committee (which will be solely responsible for contacting
8 the individual to solicit and obtain the contribution); and

9 (5) political committees may obtain a list containing caller
10 names, telephone numbers, addresses, and fax numbers.

11 A caller will be charged for the call itself on a per
12 minute basis in an amount up to \$50. Politechs will retain
13 the full amount of the caller's payment for the call; this is
14 the charge to the political committee for the value of
15 services rendered by Politechs and by the third-party vendors
16 with whom Politechs will contract. If, in addition to the
17 call itself, the caller also makes a credit card
18 contribution, the political committee will receive the full
19 amount of that credit card contribution minus the usual and
20 normal service charges of the credit card issuers.

21 B. Preliminary Arrangements

22 Politechs has reserved certain 900 numbers under a
23 licensing agreement with DialTone, Inc., a California
24 corporation. Pursuant to a contract with a political
25 committee, Politechs will authorize DialTone to enter into an
26 agreement with a long distance carrier ("LDC") to receive 900
27 number access and services (including tariffed interstate
28 network services and non-tariffed premium billing services).
29 Politechs will also enter into agreements with a service
30 bureau for operation of call termination equipment and
various caller identification and screening systems
(including automatic number identification, voice response

3 units, and touchtone data capture services), and with various
4 third party vendors for other necessary services (e.g.,
5 credit card authorization and processing, billing name and
6 address services, etc.). The services described above will
7 be obtained from the various vendors at the usual and normal
8 charge for similar services; the rate will include expenses
9 plus a reasonable profit.

10 In order to avoid any corporate contributions, Politechs
11 will ensure that the political committees do not receive any
12 services for which Politechs, or the third-party vendors with
13 whom it contracts, remains uncompensated or is compensated
14 below the usual and normal charge for all services received.
15 All of the charges for programming the script, voice
16 digitization, and other related set-up charges will be
17 billed, in advance, directly to the political committees at
18 the usual and normal rate. In addition, Politechs will
19 require deposits from its political committee customers
20 sufficient to cover the costs of the service and any losses.
21 In order to ensure that losses do not exceed the deposit,
22 Politechs will terminate its 900 number service for a
23 particular political committee if the service fails to
24 generate sufficient caller volume.

25 C. Content of the Calls

26 Callers to a 900 number will first hear a preamble on
27 the audioscript informing them of the charges for the call,
28 the purpose of the call, and the identity of the political
29 committee. The audioscript will explain that the entire
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3 charge is considered a political contribution subject to the
4 limitations and prohibitions of the Act. It will also inform
5 callers about relevant contribution limits and prohibitions
6 on contributions from corporations, labor unions, government
7 contractors and foreign nationals, as well as contributions
8 in the name of another, and a prohibition against a credit
9 card cardholder receiving reimbursement for the charge to his
10 or her card. At the conclusion of the preamble, callers will
11 be provided an opportunity to disconnect without incurring
12 any charges.

13 Those callers who remain on the line following the
14 preamble will be prompted by an audioscript to enter
15 responses to various questions, using an interactive
16 touchtone response system.^{1/} These responses will include a
17 caller's party affiliation, views about a candidate's
18 position on a particular issue (e.g., affirmative, negative
19 or numerical answers), fax number (if the caller wishes to
20 receive information about a candidate's position), and credit
21 card number and expiration date in the event the caller
22 wishes to make a contribution. Callers will also have the
23 opportunity to indicate that they wish to be contacted by the
24 political committee directly in order to make a contribution
25 by means other than a credit card. Database controls will
26 monitor the length of individual calls and the number of
27 times an individual may call the 900 number; this would limit

28 ^{1/} It appears from your request that your proposed service
29 will not be available for calls from rotary-dial phones.
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3 the number of calls and the total contributions resulting
4 from any one telephone number. The aggregate cost of calls
5 from the same telephone number will be limited to \$50.

6 D. Caller Identity and Screening Procedures

7 The service bureau acting under contract with Politechs
8 will have the technological capability to identify individual
9 callers in order to ensure proper recordkeeping and to
10 safeguard against the receipt of corporate and other
11 prohibited contributions.^{2/} Using an automatic number
12 identification ("ANI") system, as well as touchtone responses
13 to prompts recorded by a voice response unit ("VRU"), the
14 service bureau will record the incoming numbers of callers
15 along with any other caller identification that is
16 ascertained from the calls. This information will be
17 provided by the service bureau to R.j. Gordon & Company
18 ("RjGCo"), which will operate a data base management system
19 for Politechs. RjGCo will contract with a third-party vendor
20 to obtain billing name and address ("BNA") information for
21 each call received at the service bureau. BNA information
22 allows the service bureau to match the telephone numbers to
23 the callers' names and addresses. The combination of caller
24 identity and screening procedures will permit Politechs to
25 identify in excess of 96 percent of individual callers. Only
26 identified callers will be billed. Politechs, consistent

26 ^{2/} In addition to the screening activities undertaken under
27 this proposal, you note your understanding that many
28 businesses block access to all 900 services from telephones
29 lines located on corporate premises or used by the
30 corporation for business purposes.

3 with usual and normal practice, will be liable for all
4 charges related to calls for which a caller cannot be
5 identified.

6 With this information, the providers acting under
7 contract with Politechs will perform a number of screening
8 functions of the type and quality described in Advisory
9 Opinion 1991-20 to identify contributions and prevent a
10 political committee from receiving impermissible
11 contributions from callers to the 900 number. In addition to
12 the above screening activities, the vendors operating under
13 contract with Politechs will block certain infodigits in
14 order to accept only those calls placed from residential
15 telephone numbers. Only those calls from verified
16 residential telephones will be accepted for billing; calls
17 from corporation or labor organizations will be eliminated
18 from the data collection and billing processes (although, as
19 described below, Politechs will be obligated to pay for the
20 tariff charges related to such calls). In addition, you
21 explain that individuals calling from telephone numbers
22 outside the United States are unable to access 900 numbers,
23 thereby preventing the receipt of prohibited contributions
24 from nonresident foreign nationals.

24 E. Billing Process

25 After the described caller identity and screening
26 activities are completed, a billing company (not an LDC)
27 operating under contract with Politechs will bill individuals
28 for calls to Politechs' 900 number.
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3 If a caller claims that a call was unauthorized or made
4 by mistake, the billing company reserves the right to remove
5 the disputed charges from a caller's bill. Politechs will be
6 provided with a list of telephone numbers for which the
7 charges were refused, and Politechs, consistent with usual
8 and normal practice, will be liable for all charges related
9 to such calls. The billing company and/or service bureau
10 will provide Politechs with a monthly Call Detail Report
11 (listing the total number of calls and a breakdown of each
12 call by telephone number providing date, time, and charge)
13 and Call Refund Report (listing the telephone numbers for
14 which charges were refused successfully).

15 F. Delivery of Information to Political Committees

16 Politechs will provide the political committees with a
17 list of callers, including their telephone numbers,
18 addresses, and fax numbers generated from various screening
19 systems. Politechs will also provide a summary of the
20 touchtone responses of callers (e.g., affirmative, negative
21 or numerical answers to the audioscripted questions) to
22 political committees at regular intervals. The committees
23 will pay Politechs the usual and normal rate for the lists
24 and summaries.

25 G. Credit Card Contributions

26 In the event a caller wishes to make a contribution to
27 the political committee, the information entered by the
28 caller (credit card number, credit card expiration date,
29 amount of desired contribution) will be provided by the
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3 service bureau to Electronic Authorization Systems, Inc.
4 ("EAS"), a California corporation. EAS, operating under
5 contract with Politechs, will take the information recorded
6 by the VRU at the service bureau and obtain credit card
7 authorization from callers. EAS will not authorize any
8 non-U.S. issued credit card for collection or processing of
9 the credit card charges.

10 After the processing and screening activities described
11 above are completed by EAS, the information will be provided
12 by EAS to Electronic Card Systems, Inc. ("ECS"), a California
13 corporation, which will process the credit card transactions.
14 Billing information will be transmitted by ECS to the credit
15 card issuer (e.g., Master Card, VISA, etc.), which will bill
16 credit card holders for their contributions. The credit card
17 issuers will follow their usual and normal collection
18 procedures to obtain payment from those using the cards to
19 make contributions, and will render its services in the
20 ordinary course of business for the usual and normal charges.
21 Proceeds from credit card contributions will be forwarded to
22 the political committee within ten days of the 900-line phone
23 call. While the amount Politechs actually remits to the
24 political committee will be reduced by the clearing,
25 processing, and service charges deducted by EAS, ECS and the
26 card issuer (which service charges will be considered
27 expenditures by the political committees), the entire amount
28 of the caller's credit card transaction will be treated as a
29 contribution to the political committee.
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3 H. Caller Faxback Service

4 As part of the audioscript, callers have the option to
5 request that information relative to a candidate's positions
6 on certain issues, fact sheets, or general background
7 information be provided to them via a "faxback" service.
8 These callers indicate the material they wish to receive and
9 enter their fax number. This information is recorded by the
10 VRU and is forwarded to the RjGCo for processing. The
11 information is then delivered via a data feed to a
12 third-party vendor operating under contract with Politechs
13 that will fax the information to the caller. Callers will
14 accrue an additional cost for the faxback service which will
15 be included in the total cost of the call.

16 I. Advertising of Politechs 900 Number Service

17 The political committee will be expected to publicize
18 the 900 number through various print and broadcast media.
19 Politechs will advise its clients to include a disclaimer on
20 all advertisements stating the name of the committee
21 authorizing the activity, identifying the person or entity
22 paying for the solicitation, informing potential callers that
23 they will be contributors subject to the limitations of Act,
24 and providing such other information as required by
25 Commission regulations.

26 II. Legal Analysis

27 The Commission has considered requests from different
28 types of participants who deliver 900 line services to
29 political committees. The Commission has addressed the
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3 responsibilities of long distance providers in Advisory
4 Opinions 1991-2 and 1990-14, of service bureaus in Advisory
5 Opinions 1991-20 and 1990-1, and of a billing and collection
6 company, which also performed some functions of a service
7 bureau, in Advisory Opinion 1991-26. Politechs appears to
8 combine the functions of the service bureau and the billing
9 company. In addition, your proposal entails a broader range
10 of services than previously discussed with respect to 900
11 line fundraising. Politechs' proposal raises issues
12 pertaining to payment by the political committee for the
13 delivered services, the identification of contributors
14 (including the prevention of the receipt and use of excessive
15 and prohibited contributions), the timely transmission of
16 contributions, the solicitations for use of the service, and
17 reporting of contributions and expenditures.

18 A. Payment by Political Committee

19 The advisory opinions cited above made clear that such
20 entities must provide their services to each political
21 committee customer at the usual and normal charge in order to
22 avoid corporate contributions to the political committee. 2
23 U.S.C. §441b(a) and 441b(b)(2); 11 CFR 114.2(b), 114.1(a)(1),
24 and 100.7(a)(1)(iii)(A) and (B). You have stated that
25 Politechs will ensure that the political committees do not
26 receive any services for which Politechs, or the third party
27 vendors with whom it contracts, remains compensated below the
28 usual and normal charges for all services received. The
29 Commission assumes that the charges paid by Politechs and the
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3 vendors will be included in the computation of the usual and
4 normal charge to the political committee. The Commission
5 further assumes that this usual and normal charge rule will
6 be followed as regards the amounts charged in the
7 arrangements between vendors contracting with Politechs and
8 other vendors providing services, e.g., DialTone and an LDC,
9 or RJGCo with the BNA information provider. Therefore, the
10 amount that Politechs considers to be the usual and normal
11 charge to the political committee would not be reduced by
12 underlying costs lower than the usual and normal charge.^{3/}
13 See Advisory Opinions 1991-26, 1991-2, and 1990-1. Your
14 requirement for advance payment for set-up charges, a deposit
15 sufficient to cover costs, and termination of services to
16 prevent losses exceeding the deposit appear to ensure that
17 the political committee does not receive an in-kind corporate
18 contribution.^{4/} See Advisory Opinion 1990-1. Compare

19
20 ^{3/} The concept of usual and normal charge, as it relates to
21 charges between vendors that are passed on to the principal
22 vendor and to the committee, includes discounts, so long as
23 those discounts are in the seller's ordinary course of
24 business. See Advisory Opinions 1992-24, 1989-14, and
25 1987-24.

26 ^{4/} When you say that Politechs will be liable for all
27 charges related to calls for which callers refuse to pay, the
28 Commission assumes that those charges will be covered by the
29 amounts paid by the political committee and the revenues from
30 the paid calls (not including the credit card contributions
or subsequent contributions). In addition, should there be
unexpected losses due to a large amount of refusals by
callers to pay, any payment by Politechs that is not covered
by the amounts charged to the committee or the revenues from
paid calls must be paid by the committee within a reasonable
period of time. See Advisory Opinion 1990-1, n.4.

3 Advisory Opinion 1991-20.

4 B. Contributor Identification and Prevention of
5 Unlawful Contributions

6 The payments by callers for the calls themselves will be
7 contributions to the committee in the amounts they are
8 charged. Advisory Opinion 1990-1; see 11 CFR 100.7(a)(2).
9 Past 900-line opinions have required that the requester
10 companies perform screening and other functions to identify
11 contributors and ensure that impermissible and excessive
12 contributions do not reach the committee. In Advisory
13 Opinion 1991-20, for example, the Commission required the
14 service bureau to offer certain services, based on
15 capabilities described in its request, or to take steps to
16 ensure that the committee is using comparable services.
17 These services included touchtone or voice services to
18 identify: calls being made from foreign nationals or from
19 those calling on behalf of corporations and labor unions;
20 calls on the phones of corporations, labor unions, or foreign
21 nationals; and calls made by those who are calling from
22 phones that are not billed in the name of an immediate family
23 member (to minimize or avoid contributions in the name of
24 another by reimbursement of the billed party). See 2 U.S.C.
25 §§441b, 441e, and 441f. Other required services were the use
26 of audioscripts and call transcription on touchtone and
27 rotary phones and reverse directories to obtain caller name
28 and address; and use of the Call Detail and Call Refund
29 reports (or comparable alternative means) to obtain the names
30

3 and addresses of callers. In Advisory Opinion 1991-26, the
4 Commission approved the proposal of the billing company
5 because of the ability to identify callers and the source of
6 the contributions, and the clear explanations and admonitions
7 as to various types of prohibited contributions. The
8 proposed arrangements included the provision of magnetic
9 tapes (with caller telephone numbers) to the billing company,
10 the optional use of transcription of audio or touchtone
11 responses, and the use of BNA information. The proposal
12 further included billing restricted to the numbers on the
13 tape, the use of a billing form requiring information from
14 the contributor, and the receipt by the billing company of
15 the actual contribution check.

16 Politechs' proposal appears to entail a number of
17 functions aimed at identifying contributors and preventing
18 unlawful and excessive contributions. The audioscripted
19 preamble will inform the callers of the prohibitions. The
20 proposed use of ANI and BNA, along with VRU and other caller
21 identification obtained from the calls, will enable the
22 subcontractors to obtain caller names and addresses. You
23 represent that you will use a number of screening functions
24 of the type described in Advisory Opinion 1991-20; the
25 Commission assumes this includes obtaining similar types of
26 touchtone or voice indications from callers aimed at
27 preventing contributions from prohibited sources. You also
28 state that certain infodigits would be blocked to limit
29 access only to those calling from residential phones located
30

3 in the United States; thus, only domestic residential phones
4 would be billed.

5 Politechs' proposal avoids a number of the concerns
6 discussed in Advisory Opinion 1991-20 as to contributor
7 identity and unidentified contributions. Billing will be
8 done by a billing company, instead of by a local exchange
9 carrier; the billing company can only bill identifiable
10 callers so there is no possibility of receiving revenues from
11 unidentified sources. Accordingly, there would be no
12 difficulty as to the disposition of such contributions.

13 While no part of the revenue from the call itself (as
14 opposed to the credit card contributions) reaches the
15 political committee, the amount the caller pays is still a
16 contribution to the committee. Therefore, it remains
17 necessary that Politechs obtain the name and address of the
18 contributor along with the contribution amount and date, and
19 forward that information to the committee. Although the \$50
20 ceiling for each call, or for multiple calls from the same
21 phone number would not trigger the recordkeeping requirement
22 of 2 U.S.C. §432(c)(2) and 11 CFR 102.9(a)(1), the
23 contributor may make other contributions to a committee, such
24 as by credit card (as otherwise proposed herein); other
25 contributions may occur pursuant to different solicitations,
26 or a contribution may result from a caller's use of another
27 residential telephone. In those circumstances, the same
28 individual's contributions could aggregate in excess of \$200,
29 triggering further recordkeeping requirements as well as the
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3 requirement to report the date and amount of the contribution
4 and the name, address, employer, and occupation of the
5 contributor. 2 U.S.C. §§431(13), 432(c)(3), and 434(b)(3)(A);
6 11 CFR 100.12, 102.9(a)(2), and 104.3(a)(4)(i).

7 Your request does not explicitly provide for voice
8 responses by the caller. In addition, the request does not
9 discuss the information provided and requested on the bills
10 sent to callers. The Commission suggests that the billing
11 company request that the billed individual provide, on a form
12 accompanying the check, his or her occupation and employer.
13 In the alternative, Politechs may arrange with the committee
14 to have the appropriate contributors contacted for that
15 information. See Advisory Opinion 1990-1, n.7.^{5/} In
16 addition, the invoice should make clear to the caller what
17 political committee or committees he or she is contributing
18 to and the amounts for each committee (i.e., not just the
19 total if there is billing for more than one committee).^{6/} In

20 ^{5/} The Commission also notes the requirement that the
21 committee exert best efforts to obtain any required
22 contributor identification information that it lacks. See 11
23 CFR 104.7; see also Advisory Opinion 1995-9.

24 ^{6/} Since the checks sent by the callers are contributions
25 to the applicable political committees, the company
26 depositing the checks should deposit them in a bank account
27 separate from its other business receipts and set up
28 especially for the political committee clients. See 2 U.S.C.
29 §432(h)(1) and 11 CFR 103.2 and 103.3(a). Consistent with
30 Advisory Opinion 1991-20, which took into account the
potentially large number of political committee customers of
a service bureau in a 900-line context, the company needs to
set up only one separate account to contain the proceeds for
all the political committees. Politechs should inform the
committees of the identity of the depository so that each
committee may disclose the depository on an amended statement
of organization.

3 this way, the contributor can monitor his or her contribution
4 totals to a particular political committee. See 2 U.S.C.
5 §441a(a)(1)(A) and (C).^{7/}

6 Since the billing company or service bureau will see the
7 actual checks sent by callers (as opposed to the situation in
8 which a caller is billed by a long distance or local exchange
9 carrier), there appear to be certain capabilities under your
10 proposal to ensure against prohibited contributions. The
11 collecting entity will also have the opportunity to review a
12 form accompanying the check, such as the form discussed in
13 the previous paragraph, on which the contributor should be
14 asked to provide name and address, if such information is
15 different from that of the billed individual. The recipient
16 of the checks should screen the checks and the forms to
17 separate out those instruments that appear to be drawn on
18 corporate or labor union accounts, or contributions from
19 persons other than the billed caller. Further inquiry may be
20 made to the contributor by Politechs, the collecting entity,
21 or the committee as to such contributions to enable the
22 return of those contributions that cannot be determined to be
23 lawful (e.g., those prohibited by 2 U.S.C. §§441b or 441f).
24 See Advisory Opinion 1991-26.

25 The committee will be determined to have received the

26 ^{7/} In addition, such information may be necessary for
27 accurately interpreting the Call Refund Report. If the
28 caller refuses to pay some or all the charges for a
29 particular call but chooses to pay for other calls, the
30 caller may designate which calls are being paid for and in
what amounts.

3 contribution when the collecting entity, which is acting on
4 its behalf, receives the check. Those entities responsible
5 for processing these contributions, including the political
6 committee, must comply with the time limits for the return of
7 prohibited contributions set out in 11 CFR 103.3(b)(1). In
8 addition, further inquiry should be made with respect to
9 contributions made by persons other than the billed
10 individual to obtain information relevant to the Act that
11 would normally be obtained from voice or touchtone response
12 but may be missing because a different person contributed.

13 C. Timely Transmittal of Contributions and Information

14 The Act and Commission regulations prescribe time limits
15 on the transmittal of contributions by persons who receive
16 them on behalf of a political committee. A contribution to
17 an authorized committee must be forwarded to the treasurer no
18 later than 10 days after the person's receipt. If the
19 contribution exceeds \$50, the name and address of the
20 contributor and the date of receipt must be forwarded with
21 the contribution, and, if the contribution is over \$200, the
22 employer and occupation must also be forwarded. The same
23 rules apply to contributions in excess of \$50 to committees
24 that are not authorized committees. Contributions of \$50 or
25 under to non-authorized committees must be forwarded within
26 thirty days (with no information forwarding requirement). 2
27 U.S.C. §432(b)(1) and (2); 11 CFR 102.8(a) and (b). These
28 time limits for forwarding the contribution and the
29 information do not apply to the contributions for the call
30

itself since no part of the funds will be transmitted to the committee and the contributions are each \$50 or under.^{8/}

The time limits may apply, however, to the credit card contributions. A contribution by credit card is considered as received when the political committee receives the contributor's authorization; in this situation, that would be when EAS contacts the caller after the call and obtains the donor's authorization. See Advisory Opinion 1990-4. The caller can authorize any amount that would keep his or her contributions to the committee within the limits of 2 U.S.C. §441a. You state that the proceeds will be forwarded to the committee within ten days of the authorization. It is also necessary that appropriate information about the contributor be forwarded within the times set forth in 2 U.S.C. §432(b) and 11 CFR 102.8. If information as to employer and occupation are not obtained from the voice responses in the initial call itself, EAS should obtain this information when it contacts the caller for authorization.^{9/}

8/ Although the time limits for forwarding contributions and contributor information do not apply to each individual contribution for the call itself, the information must still be forwarded to the political committee for recordkeeping and reporting purposes as explained above in section II, B. Such information must be forwarded expeditiously enough to enable the committee to file complete disclosure reports in a timely manner and to fulfill other requirements such as the timely return of contributions that when aggregated with an individual's other contributions exceed the limits of 2 U.S.C. §441a. See 2 U.S.C. §434(a) and 11 CFR 103.3(b)(3).

9/ You indicate that screening of credit card contributions will occur after EAS receives contributor authorizations; this may result in authorizations from impermissible sources. Although the committee has technically received a contribution from that source, your description indicates

3 D. Solicitations for Use of 900-Line Service

4 Your proposed advice to your political committee clients
5 as to the use of disclaimers and informing those reading or
6 hearing the ads that they will be contributors is consistent
7 with Act, as set out in Advisory Opinion 1990-1.

8 E. Reporting of Contributions and Expenditures

9 The political committee has certain reporting
10 obligations as a result of these transactions and should be
11 advised of them. As you have indicated in your request, the
12 full amount authorized by the caller on his or her credit
13 card is a contribution in that amount to the committee and
14 should be included in the committee's reports of
15 contributions and, if appropriate, itemized contributions.
16 See 2 U.S.C. §434(b)(2)(A) and (3)(A); 11 CFR 104.3(a)(2)(i),
17 (3)(i), and (4)(i). Charges for credit card clearing,
18 processing, and related expenses, which reduce the proceeds
19 to the committee, are reportable as operating expenditures.
20 See 2 U.S.C. §434(b)(4)(A) and (5)(A); 11 CFR 104.3(b)(3)(i)
21 and (4)(i). See Advisory Opinion 1991-1.

22 The full amount paid by the callers for the calls
23 themselves are also reportable as contributions (with
24 itemization, if appropriate). These amounts are also

25 (Footnote 9 continued from previous page)
26 that screening will prevent the contribution from being
27 credited to the committee. The Commission assumes that the
28 amount authorized will instead be credited back, in full, to
29 the contributor. This would be, in effect, a timely refund
30 of the contribution. The Commission assumes that information
as to this "return" will be sent to the committee and to the
contributor.

3 included in the reportable operating expenditure amounts
4 because they are being retained by Politechs (for payments to
5 itself and subcontractors) for the services rendered to the
6 committee. The committee's operating expenditures also
7 include the amounts it pays to Politechs directly.^{10/}

8 This response constitutes an advisory opinion concerning
9 application of the Act, or regulations prescribed by the
10 Commission, to the specific transaction or activity set forth
11 in your request. See 2 U.S.C. §437f.

12 Sincerely,

13
14 Danny L. McDonald
15 Chairman

16 Enclosures (AOs 1995-9, 1992-24, 1991-26, 1991-20, 1991-2,
17 1991-1, 1990-14, 1990-4, 1990-1, 1989-14, and
18 1987-24)

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^{10/} This opinion does not address any issues that are
27 uniquely related to the duties or requirements of
28 presidential candidates who seek to qualify for primary
29 matching funds or general election financing. See, e.g., 11
30 CFR 9034.3(c).